

House File 2165 - Introduced

HOUSE FILE 2165
BY COMMITTEE ON HUMAN
RESOURCES

(SUCCESSOR TO HSB 511)

A BILL FOR

1 An Act relating to the use of physician orders for scope of
2 treatment including provisions relative to existing advance
3 directives.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. LEGISLATIVE FINDINGS. The general assembly
 2 recognizes the importance of encouraging individuals to discuss
 3 and make health care decisions before a situation necessitates
 4 an actual decision. The general assembly also recognizes
 5 that health care planning is a process, rather than a single
 6 decision, based upon the individual's values and personal
 7 health status. Advance directives provide the opportunity for
 8 an individual to enunciate and document the individual's wishes
 9 and to identify the person authorized to make decisions for
 10 the individual if the individual is unable to make decisions.
 11 The general assembly recognizes that the physician order for
 12 scope of treatment form, modeled after the national physician
 13 orders for life-sustaining treatment paradigm initiative,
 14 complements advance directives by converting individual wishes
 15 contained in advance directives into medical orders that are
 16 actionable across medical settings, thereby enhancing the
 17 ability of medical providers to understand and honor patients'
 18 wishes. An Iowa physician order for scope of treatment form is
 19 intended for individuals who are frail and elderly or who have
 20 a chronic, critical medical condition or a terminal illness.

21 Sec. 2. NEW SECTION. 144D.1 **Physician orders for scope of**
 22 **treatment.**

23 As used in this chapter, unless the context otherwise
 24 requires:

25 1. "*Advanced registered nurse practitioner*" means an advanced
 26 registered nurse practitioner licensed pursuant to chapter 152
 27 or 152E.

28 2. "*Department*" means the department of public health.

29 3. "*Emergency medical care provider*" means emergency medical
 30 care provider as defined in section 147A.1.

31 4. "*Health care facility*" means health care facility as
 32 defined in section 135C.1, a hospice program as defined in
 33 section 135J.1, an elder group home as defined in section
 34 231B.1, and an assisted living program as defined in section
 35 231C.2.

1 5. "*Health care provider*" means an individual, including
2 an emergency medical care provider and an individual providing
3 home and community-based services, who is licensed, certified,
4 or otherwise authorized or permitted by the law of this state
5 to administer health care in the ordinary course of business or
6 in the practice of a profession.

7 6. "*Home health agency*" means home health agency as defined
8 in 42 C.F.R. pt. 484.

9 7. "*Hospital*" means hospital as defined in section 135B.1.

10 8. "*Legal representative*" means an individual authorized to
11 execute a POST form on behalf of a patient who is not competent
12 to do so, in the order of priority set out in section 144A.7,
13 subsection 1.

14 9. "*Physician*" means a person licensed to practice medicine
15 and surgery or osteopathic medicine and surgery in this state.

16 10. "*Physician assistant*" means a person licensed as a
17 physician assistant under chapter 148C.

18 11. "*Physician orders for scope of treatment form*" or "*POST*
19 *form*" means a document containing medical orders actionable
20 across medical settings that consolidates and summarizes
21 an individual's preferences for life-sustaining treatments
22 and interventions and acts as a complement to and does not
23 supersede any valid advance directive.

24 Sec. 3. NEW SECTION. 144D.2 **Physician orders for scope of**
25 **treatment (POST) form.**

26 1. The POST form shall be a uniform form based upon the
27 national physician orders for life-sustaining treatment
28 paradigm form. The form shall have all of the following
29 characteristics:

30 a. The form shall include the patient's name and date of
31 birth.

32 b. The form shall be signed and dated by the patient or the
33 patient's legal representative.

34 c. The form shall be signed and dated by the patient's
35 physician, advanced registered nurse practitioner, or physician

1 assistant.

2 *d.* If preparation of the form was facilitated by another
3 individual, the facilitator shall also sign and date the form.

4 *e.* The form shall include the patient's wishes regarding the
5 care of the patient, including but not limited to all of the
6 following:

7 (1) The administration of cardiopulmonary resuscitation.

8 (2) The level of medical interventions in the event of a
9 medical emergency.

10 (3) The use of medically administered nutrition by tube.

11 (4) The rationale for the orders.

12 *f.* The form shall be easily distinguishable to facilitate
13 recognition by health care providers, hospitals, and health
14 care facilities.

15 *g.* An incomplete section on the form shall imply the
16 patient's wishes for full treatment for the type of treatment
17 addressed in that section.

18 2. The department shall post the form on the department's
19 website for public availability.

20 Sec. 4. NEW SECTION. 144D.3 **Compliance with POST form.**

21 1. A POST form executed in this state or another state
22 or jurisdiction in compliance with the law of that state or
23 jurisdiction shall be deemed valid and enforceable in this
24 state to the extent the form is consistent with the laws of
25 this state, and may be accepted by a health care provider,
26 hospital, home health agency, or health care facility.

27 2. A health care provider, hospital, home health agency,
28 or health care facility may comply with an executed POST form,
29 notwithstanding that the physician, advanced registered nurse
30 practitioner, or physician assistant who signed the POST form
31 does not have admitting privileges at the hospital or health
32 care facility providing health care or treatment.

33 3. In the absence of actual notice of the revocation of
34 a POST form, a health care provider, hospital, home health
35 agency, health care facility, or any other person who complies

1 with a POST form shall not be subject to civil or criminal
2 liability for actions taken under this chapter which are in
3 accordance with reasonable medical standards. A health care
4 provider, hospital, home health agency, health care facility,
5 or other person against whom criminal or civil liability is
6 asserted because of conduct in compliance with this chapter may
7 interpose the restriction on liability in this paragraph as an
8 absolute defense.

9 4. A health care provider, hospital, home health agency,
10 or health care facility that is unwilling to comply with an
11 executed POST form shall take all reasonable steps to transfer
12 the patient to another health care provider, hospital, home
13 health agency, or health care facility.

14 Sec. 5. NEW SECTION. 144D.4 General provisions.

15 1. If an individual is a qualified patient as defined in
16 section 144A.2, the individual's declaration executed under
17 chapter 144A shall control health care decision making for the
18 individual in accordance with chapter 144A. If an individual
19 has not executed a declaration pursuant to chapter 144A, health
20 care decision making relating to life-sustaining procedures for
21 the individual shall be governed by section 144A.7. A POST
22 form shall not supersede a declaration executed pursuant to
23 chapter 144A.

24 2. If an individual has executed a durable power of attorney
25 for health care pursuant to chapter 144B, the individual's
26 durable power of attorney for health care shall control health
27 care decision making for the individual in accordance with
28 chapter 144B. A POST form shall not supersede a durable power
29 of attorney for health care executed pursuant to chapter 144B.

30 3. Death resulting from the withholding or withdrawal of
31 life-sustaining procedures pursuant to an executed POST form
32 and in accordance with this chapter does not, for any purpose,
33 constitute a suicide, homicide, or dependent adult abuse.

34 4. The executing of a POST form does not affect in any
35 manner the sale, procurement, or issuance of any policy of

1 life insurance, nor shall it be deemed to modify the terms
2 of an existing policy of life insurance. A policy of life
3 insurance is not legally impaired or invalidated in any manner
4 by the withholding or withdrawal of life-sustaining procedures
5 pursuant to this chapter notwithstanding any term of the policy
6 to the contrary.

7 5. A health care provider, hospital, home health agency,
8 health care facility, health care service plan, insurer issuing
9 disability insurance, self-insured employee welfare benefit
10 plan, or nonprofit hospital plan shall not require any person
11 to execute a POST form as a condition of being insured for, or
12 receiving, health care services.

13 6. This chapter does not create a presumption concerning
14 the intention of an individual who has not executed a POST
15 form with respect to the use, withholding, or withdrawal
16 of life-sustaining procedures in the event of a terminal
17 condition.

18 7. This chapter shall not be interpreted to affect the right
19 of a patient to make decisions regarding use of life-sustaining
20 procedures as long as the patient is able to do so, nor to
21 impair or supersede any right or responsibility that any person
22 has to effect the withholding or withdrawal of medical care in
23 any lawful manner. In that respect, the provisions of this
24 chapter are cumulative.

25 8. This chapter shall not be construed to condone,
26 authorize, or approve mercy killing or euthanasia, or to permit
27 any affirmative or deliberate act or omission to end life other
28 than to permit the natural process of dying.

29 EXPLANATION

30 This bill provides for the use of physician orders for scope
31 of treatment (POST).

32 The bill provides legislative findings that provide that
33 the general assembly recognizes the importance of encouraging
34 individuals to discuss and make health care decisions before an
35 actual decision is necessary; that health care planning is a

1 process based upon the individual's values and personal health
2 status; and that advance directives provide the opportunity
3 for an individual to enunciate and document their wishes and
4 to identify the person authorized to make decisions for the
5 individual. The general assembly also recognizes that the
6 POST form, modeled after the national physician orders for
7 life-sustaining treatment paradigm initiative, complements
8 advance directives by converting individual wishes contained
9 in advance directives into medical orders that are actionable
10 across medical settings, thereby enhancing the ability of
11 medical providers to understand and honor patients' wishes.
12 The POST form is intended for individuals who are frail and
13 elderly or who have a chronic, critical medical condition or a
14 terminal illness.

15 The bill provides definitions used in the chapter, including
16 the physician order for scope of treatment POST form, which
17 means a document containing medical orders actionable
18 across medical settings that consolidates and summarizes
19 an individual's preferences for life-sustaining treatments
20 and interventions and acts as a complement to but does not
21 supersede any valid advance directive.

22 The bill specifies the content of the POST form and that
23 the department of public health is to post the form on the
24 department's website for public availability.

25 The bill specifies compliance requirements for the POST
26 form. A POST form executed in this state or another state
27 or jurisdiction in compliance with the law of the applicable
28 state or jurisdiction shall be deemed valid and enforceable in
29 this state to the extent the form is consistent with the laws
30 of this state, and may be accepted by a health care provider,
31 hospital, home health agency, or health care facility. A
32 health care provider, hospital, home health agency, or health
33 care facility may comply with an accepted POST form, even if
34 the physician, advanced registered nurse practitioner, or
35 physician assistant who signed the POST form does not have

1 admitting privileges at the hospital or health care facility
2 providing health care or treatment. The bill provides an
3 absolute defense to civil or criminal liability for a health
4 care provider, hospital, home health agency, health care
5 facility, or any other person who complies with a POST form
6 if the actions are in accordance with reasonable medical
7 standards. The bill requires a health care provider, hospital,
8 home health agency, or health care facility that is unwilling
9 to comply with an executed POST form to take all reasonable
10 steps to transfer the patient to another health care provider,
11 hospital, home health agency, or health care facility.

12 The bill provides for the relation of an executed POST form
13 to a declaration under the life-sustaining procedures Act and a
14 durable power of attorney for health care. In both cases, the
15 declaration and the durable power of attorney control health
16 care decision making and the POST form does not supersede them.

17 The bill provides that death resulting from the withholding
18 or withdrawal of life-sustaining procedures pursuant to an
19 executed POST form and in accordance with the bill does not
20 constitute a suicide, homicide, or dependent adult abuse and
21 that executing a POST form does not affect in any manner
22 the sale, procurement, or issuance of any policy of life
23 insurance; modify the terms of an existing policy of life
24 insurance; or legally impair or invalidate the policy. The
25 bill prohibits the execution of a POST form as a condition for
26 being insured or receiving health care services and provides
27 that not executing a POST form does not create a presumption
28 concerning the intention of an individual with respect to the
29 use, withholding, or withdrawal of life-sustaining procedures
30 in the event of a terminal condition.

31 The bill is not to be interpreted to affect the right of
32 a patient to make decisions regarding use of life-sustaining
33 procedures as long as the patient is able to do so, nor to
34 impair or supersede any right or responsibility that any person
35 has to effect the withholding or withdrawal of medical care in

1 any lawful manner. The bill is not to be construed to condone,
2 authorize, or approve mercy killing or euthanasia, or to permit
3 any affirmative or deliberate act or omission to end life other
4 than to permit the natural process of dying.

5 The general assembly in 2008 Iowa Acts, chapter 1188,
6 section 36, established a two-year pilot project in Linn county
7 and in 2010 Iowa Acts, chapter 1192, section 58, expanded
8 the pilot project to Jones county and extended the duration
9 until June 30, 2012, to pilot the use of the POST form. The
10 legislation also directed the department to convene an advisory
11 council for the pilot project and directed the advisory council
12 to report its findings and recommendations to the general
13 assembly by January 1, 2012. The advisory council recommended
14 expanding the adoption of the POST form statewide.